IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

S.T.R. No. 71 of 2001
(Old No. 252/1993)

M/s Bal Krishan Gupta & Sons
District- Dehradun ……Revisionist

Vs.

Commissioner of Sales Tax
U.P. Lucknow. ……Opposite Party

None for the revisionist.
Shri Sayeed Nadem, Learned Standing Counsel for the respondent.

Hon'ble Prafulla C. Pant, J.

Learned Standing Counsel is present for the respondent. No one appeared for the revisionist.

This revision is directed against the order dated 16.12.1992, passed by the Trade tax Tribunal, Dehradun. The question of law involved in the revision is:-

Whether the penalty imposed under Section 15 A (1) (o) of U.P. Sales Tax Act, 1948, to the tune of Rs. 37,520/- was legally correct and justified?

The appellant is a dealer and involved in the business of sale of hosiery goods, umbrella, readymade garments, rain-coats etc. The matter pertains to the assessment year 1985-86. On 07.03.1986, a squad of Sales Tax officers on raid of the godown of the assessee (revisionist), found that without obtaining form no. 31/form 32, the dealer had imported goods from outside the State to the tune of Rs. 1,90,860/- which was caught but released on giving security to the tune of Rs. 37,520/-. The Sales Tax Authority, found that the act on the part of the dealer was violative of provisions of Section 28 A of the Sales Tax Act. And a penalty of Rs. 37,520/- was

imposed on the assessee. Learned tribunal, after examining the record and hearing the parties found that it is admitted to the dealer that the goods have been imported from outside of the State. It is clear from the record that no form no. 31 could be shown by the assessee. The only defence taken by the dealer was that the other partner of the firm could explain it, as to the availability of the proper documents. But it is not clear from the record that if the revisionist could show the valid documents, importing the goods into the State. As such, the imposition of penalty under Section 15 A (1) (o) of the aforesaid act to the tune of Rs. 37,520/-, cannot be said to be unjustified. Accordingly, the question is answered in favour of the respondent and the revision is dismissed.

(Prafulla C. Pant, J.)

Dt: 28.07.2005
Sweta